

**JUDICIAL COUNCIL OF THE SIXTH CIRCUIT**  
MICHIGAN-OHIO-KENTUCKY-TENNESSEE

In re:  
Complaint of Judicial Misconduct

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\*No. 06-17-90082  
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**MEMORANDUM AND ORDER**

This complaint of judicial misconduct was filed by **[REDACTED]** (“complainant”) against the Honorable **[REDACTED]** (“subject judge”), pursuant to 28 U.S.C. § 351. The complaint alleges that the subject judge failed to effect service of process on the defendants in the complainant’s civil action. The complaint further alleges that the subject judge delayed ruling on the complainant’s motion for reconsideration of an order denying her motion for a preliminary injunction.

After conducting an initial review, the chief judge may dismiss a misconduct complaint as to which he concludes: (A) that the claimed conduct, even if it occurred, “is not prejudicial to the effective and expeditious administration of the business of the courts”; (B) that the complaint “is directly related to the merits of a decision or procedural ruling”; (C) that the complaint is “frivolous,” a term that applies to charges that are wholly unsupported; or (D) that the complaint “lack[s] sufficient evidence to raise an inference that misconduct has occurred.” Rule 11(c)(1)(A)-(D), Rules for Judicial-Conduct and Judicial-Disability Proceedings; see 28 U.S.C. § 352(a), (b).

An initial review of the record reveals that the subject judge was assigned to the complainant’s civil action. The judge granted the complainant leave to proceed in forma pauperis and ordered the U.S. Marshal to effect service of process on the defendants. Later, under the impression that all defendants had been served, the complainant moved for entry of default against most defendants. The clerk of court denied the motions on the ground that no document had been filed establishing that the defendants had been served. The complainant also moved for a preliminary injunction, and the subject judge denied the motion. The complainant moved for reconsideration, and, fifteen days later, the subject judge denied that motion as well.

This misconduct complaint is subject to dismissal under Rule 11(c)(1)(C) & (D). See *also* 28 U.S.C. § 352(b)(1)(A)(iii). The record demonstrates that the subject judge

properly ordered service of process by the U.S. Marshal. If any defendants have not been served, nothing in the record suggests that the non-service is attributable to the subject judge. The record further demonstrates that the subject judge ruled on the complainant's motion for reconsideration in a timely fashion. In short, the complaint is wholly unsupported and lacks sufficient evidence to raise an inference that misconduct has occurred.

Accordingly, it is **ORDERED** that the complaint be dismissed pursuant to 28 U.S.C. § 352(b)(1)(A)(iii) and Rule 11(c)(1)(C) & (D) of the Rules for Judicial-Conduct and Judicial-Disability Proceedings.

*/s/ R. Guy Cole, Jr.*  
Chief Judge

Date: November 28, 2017